IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FOURTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 4210 of 2004

Between:

1 B.Abraham Lincom, s/o Jospeh, 7th Lane Mutyala Reddy Nagar, Amaravathi Road, Guntur, Guntur District
2 B.Luther Paul, s/o Jospeh, 7th Lane Mutyala Reddy Nagar, Amaravathi Road, Guntur, Guntur District

.... PETITIONERS

AND

1 Deputy Registrar of Cooperative Societies, Guntur, Guntur District
2 Cooperative Sub-Registrar (Weaker Section), O/o Deputy Registrar of Cooperative Societies, Guntur, Guntur District
3 The Andhra Bank BC, SC, ST & Minorities, Employees Cooperative Society Ltd., I-2956, Guntur, Guntur District, rep by its Special Officer.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly in the nature of writ of mandamus declaring the certificate date 31-12-2003 in claim No.36/2003-04 issue by the 2nd respondent i.e., the Cooperative Sub Registrar / weaker Section O/o the 1st respondent i.e., Deputy Registrar of Cooperative Societies, Guntur, Guntur District as without jurisdiction, contrary to law, weight of evidence, arbitrary violative of principles of natural justice and hence liable to be set aside.

Counsel for the Petitioner:MR.D.V.BHADRAM

Counsel for the Respondent No.: GP FOR COOPERATION

The Court made the following :

THE HONOURABLE SRI JUSTICE B. PRAKASH RAO

WRIT PETITION NO. 4210 OF 2004

ORDER:-

Heard the learned counsel for the petitioners and learned Government Pleader for Cooperation and at their request, the writ petition itself is taken up for disposal.

Petitioners herein, who are the Ex -President and Ex- employee of third respondent Society, filed this writ petition, inter alia, challenging the impugned proceedings dated 31-12-2003 passed by second respondent granting Certificate under Section 71 (1) of the A.P. co-operative Societies Act.

The main grievance of the petitioners is that having regard to the express provision as contained in Section 71 (1) of the Act, no recovery proceedings can be initiated under the said provision as against the ex-employees and therefore, second petitioner being an ex-employee, no certificate could be issued to him. Hence, the entire proceedings are totally without jurisdiction. Further, it is the case of the petitioner that there being no such sum due, even the said provisions cannot be invoked. Learned Government Pleader appearing on behalf of the respondents sought to sustain the order on the ground that proceedings can perfectly be initiated even against ex-employees, if so involved.

Having heard the submissions made on either side and on perusal of the material on record, it is seen that the provisions of Section 71 (1) of the aforesaid Act is quite express as it applies only against the Members of the Society and therefore, it cannot be made applicable to the ex-employees. Even on a bare reading of the order, it cannot made out that the amount as sought to be fixed against can be split up against both the petitioners. In view of the same, entire proceedings are to be set aside since the said provision has no application against an ex-employee.

Accordingly, the writ petition is allowed and the impugned order is set aside. It is open to the respondents to initiate fresh action as against first petitioner or take such other action as per law as against second petitioner.

4—08—2004.

Stv/-

To

1 Deputy Registrar of Cooperative Societies, Guntur, Guntur District
2 Cooperative Sub-Registrar (Weaker Section), O/o Deputy Registrar of Cooperative Societies, Guntur, Guntur District
3 The Special Officer, Andhra Bank BC, SC, ST & Minorities, Employees Cooperative Society Ltd., I-2956, Guntur, Guntur District.

4 2CCs to the G.P. for Cooperation, High Court Buildings, Hyderabad.

5 2CD copies